

## Department of Taxation

**Regulation Title: FLORISTS AND NURSERYMEN**  
**VAC Number: 23 VAC 10-210-610**

- 1. Statement identifying and describing the source of the state and/or federal legal authority to promulgate the contemplated regulation, the scope of the authority provided, and the extent to which the authorized rulemaking is mandatory or discretionary, together with an attached copy of all cited legal provisions;**

Section 58.1-203 of the Code of Virginia authorizes the Commissioner of the Department of Taxation to promulgate regulations related to the interpretation and enforcement of the laws of the Commonwealth governing taxes administered by the department.

- 2. Statement delineating the potential issues to be addressed in the proposed regulation;**

The purpose of the regulation is to explain the application of the retail sales and use tax to florists and nurseryman. There is some confusion regarding the application of the tax to nurseryman who provide planting and maintenance services and those that simply provide planting services. It is the department's intent to clarify the distinction between the two and to provide additional guidance regarding the application of the sales tax to florist delivery orders.

- 3. Statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function, including a discussion of the problems the regulations are intended to solve;**

The proposed amendments are essential because they will clarify the application of the tax to nurserymen as opposed to a landscape contractor. In addition, the amendments will clarify the application of the tax to florists who receive in-state and out-of-state delivery orders.

- 4. Statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered or to be considered, and the reasoning by which the agency has rejected any of the alternatives considered.**

Alternatives which might achieve the essential purpose for which the regulatory action has been undertaken were considered. It is in the best interest of the consuming public and the

department that this policy is articulated in the form of amendments to the regulation in the event of litigation.